

USAID UKRAINE COMMERCIAL LAW CENTER PROJECT

Contract No. 121-C-00-00-00823-00

Deloitte Touche Tohmatsu Emerging Markets, Ltd.

QUARTERLY PERFORMANCE MONITORING REPORT 1

For the Quarter Ending 31 October 2000

Introduction

The current reporting period commenced on 1 August 2000 with the fielding of the Project's Chief of Party in Kyiv. Nearly one-half of the quarter was spent on designing the Project workplan, locating and setting up office space, and hiring initial staff. Despite the time-consuming nature of these administrative chores, the Project nevertheless succeeded in rapidly establishing a presence in the commercial law reform area in Ukraine.

Activities During Reported Period

During the reporting period, the Project conducted the following activities:

Administrative & Institutional

- Project office space was leased on 1 September at the Horizon Tower and the initial technical advance team opened the office ten days later. This space is considered a temporary measure given that permanent space for the Commercial Law Center at Kyiv-Mohyla Academy will become available in the summer of 2001.
- The majority of the initial Project/Center administrative and program staff (including Center director, deputy director, 2 of the 4 planned department heads, and bookkeeper) began working in the latter half of the month. US national Justin Holl began working as Senior Legal Adviser on 9 October.
- The Project received its registration and accreditation certificates on 11 October. We will now be able to proceed with applying for a Project seal and local bank accounts. Nonetheless, it will still probably take until the end of the 2nd quarter before all of the necessary local paperwork is completed and the accounts have been opened.
- A Year One Workplan and Monitoring Plan were submitted to USAID/Kyiv and approved during the reporting period.
- The Project convened the first meeting of the Commercial Law Center Advisory Board at the end of the current reporting quarter. The Advisory Board consists of a core group of individuals actively dedicated to the development of the Center (Kyiv-Mohyla Academy, Law Sciences Academy,

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Yaroslav Mudriy National Law Academy) as well as a wider group of stakeholder representatives. Members had a chance to review the Project/Center's mission statement and workplan and discussion focused on the need to concentrate on establishing a financially sustainable, local Ukrainian entity.

- The Project held several meetings with the President and Law School Dean of the Kyiv-Mohyla Academy to discuss both closer integration of the Center with the Academy's law school program and to secure permanent space for the Commercial Law Center. With its Western-oriented curriculum the Kyiv-Mohyla Academy represents a unique environment in which to cultivate the activities of the Commercial Law Center. President Brioukhovetsky considers it imperative that the Center be an integral part of the Academy's law school program and not merely a on-campus tenant.
- The Project took possession of an equipment inventory provided by the former IRIS contract. Essential equipment procurement for the Project is proceeding with computer workstations scheduled for delivery in the 2nd quarter.

Professional Development

- Nearly 100 legal professionals were surveyed regarding their interest in commercial law training. Work is nearing completion on a Year One training schedule. In addition, the Project has begun assembling lists of potential speakers and participants for its training activities. The International Law Institute in Washington has been regularly providing information on the materials and resources it has available to facilitate the Project's training program.
- An annual program of training workshops has been developed in broad outline form. The program calls for a series of six Workshops, to be held from December 2000 to July 2001, that progress through specific issues fundamental to commercial law.
- A tentative core of five topic areas has been developed for the short continuing legal education (CLE) courses and work continues in assembling a list of speakers.
- On 20 October a Round Table was held on law school curriculum reform to begin examining the issue whether or not the current commercial law specialty is adequate for the needs of Ukraine. Leading Ukrainian scholars in the area of commercial law attended and reported on the state of commercial law curricula in Ukraine. A special working group was created to develop a proposal for a unified commercial law curriculum for Ukraine.

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- The Project commissioned a report on commercial law education in Ukraine, including the institutional and curricular accreditation process. The report will be made available to both local and foreign experts as a unique resource to understand the peculiarities of legal education in Ukraine.
- A database of professional law periodicals was completed. In addition to serving as a useful reference tool, it will be helpful for the Project when it becomes necessary to finalize plans for publishing the Center's law journal in determining the best format for such a publication.

Technical Advisory Functions

- Consultations are ongoing with the Parliament GOU, and USAID/OER regarding possible areas of cooperation in the area of technical assistance. Meetings have also been held with contractors to determine project parameters and to maximize implementation coordination efforts. The most important laws that CLC will be working on are "On Pledge", "On Hypothecation", and "On the Order of Discharging Tax Obligations Behind Budgets and Other State Funds", and others.
- A draft of the law "On the Order of Discharging Tax Obligations Behind Budgets and Other State Funds" was of immediate concern during this reporting period, because it was scheduled to be considered by Parliament on 2 November. The draft contained several provisions inimical to Ukrainian bankruptcy and commercial practice and was inconsistent with constitutional provisions and other laws. The CLC worked in coordination with USAID and the USAID Financial Restructuring Project to put together a position paper which was submitted to members of the Verkhovna Rada just prior to the hearing on the draft law. This effort was influential in the Verkhovna Rada failing to adopt the law in the second reading at the current time. The CLC will continue to coordinate with the USAID Financial Restructuring Project to develop a strategy for providing the Parliament with concrete proposals for amending the draft to comport with constitutional principles and sound commercial practices. The Project will also commission expert opinion memoranda from private attorneys.
- Work is nearing completion on designing an electronic database for registering and processing Technical Advisory Service requests made to the project. However, since it would be ideal to have the database linked to the Center's website, it will be necessary to resolve the website issue (please see reference below) before work can be completed on this database and others the Project will need to develop (i.e., experts, speakers, journalists, etc.).

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Outreach & Information

- The disappearance of prominent Ukrainian journalist Heorhiy Gongadze in mid September created difficulties for the Project in that his wife Myroslava was to begin working as Outreach Director. After consultations with USAID/OER it was decided to put off any further decision in the matter until the situation became better clarified. As a result, the Outreach & Information area was temporarily left without a director, though some activities were handled by other staff members.
- It has been particularly difficult to collect any information regarding the activities of the former Commercial Law Clearinghouse as there no longer is any institutional presence of that previous project. The CLC Project's interactive website may have to be developed from scratch, though the Clearinghouse site (currently unoperational) will be used as a model. We hope to have a mainpage operational in the 2nd quarter with the interactive function coming on-line in the 3rd quarter.
- The Project's first monthly meeting of commercial law contractors was held on 26 September. Contractor representatives reported on their current activities and Center Director Viktor Musiyaka gave a status report on the draft Civil Code and on the Parliament's current legislative agenda.

Task Orders

- USAID/OER has provided the Project with copies of two unsolicited requests for technical assistance. These include a request from the Parliamentary Legal Policy Committee to finance an Intellectual Property Code and a request to fund the establishment of a special drafting unit within the Cabinet of Ministers. After discussions with USAID/OER it was decided to investigate the proposals further though it appeared unlikely that the Mission would have the resources to fund these two requests.
- An additional task order request has been submitted to USAID by the Ukrainian Legal Foundation to fund the completion of a Ukrainian-Russian-English legal dictionary. The Project has begun working with the ULF to streamline the proposal and ready it for the task order process.
- The ULF has also submitted two requests to support a one-year Civil Code training program for law professors, and a regional series of Civil Code roundtables. After consultations with USAID/OER it was decided that the proposals will be reviewed on an ongoing basis pending receipt of a study of the effectiveness of last year's professorial training program and pending further developments in the adoption of the new Civil Code.

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Activities Planned Next Reporting Period

During the next quarter, activities will continue to focus on the further development of the Center's training program and elaboration of the Project's technical advisory capacity. Four pilot training events will take place in the 2nd quarter. With over thirty training events scheduled for the 3rd and 4th quarters, it will be critical to study lessons learned from the pilot events and make necessary programmatic and/or technical modifications.

Specific activities during the quarter will include:

- Organization of pilot seminars:
 - for businesspeople – “Protecting the Rights of Business” (2 events, one in Lviv and one in Kyiv);
 - for public and private lawyers – “Business Enterprises as Subjects of Entrepreneurial Activity” (1-week training seminar) and a “Practical Problems in the Application of Commercial Law” CLE session (both in Kyiv).
- Continue development of a specialized seminar on Legislative Drafting. It will be necessary to complete consultations regarding existing efforts already extant in Ukraine so as to avoid duplication.
- Continue work on the draft law “On the Order of Discharging Tax Obligations Behind Budgets and Other State Funds” in an attempt to minimize its impact on other legislation. Continue consultations regarding further activities on specific legislative initiatives.
- Continue technical development of the Center's interactive website. If it ultimately proves impossible to obtain possession of the Clearinghouse's electronic files, it may be necessary to redesign the website entirely from scratch.
- Finalize discussions with Kyiv-Mohyla Academy to establish the Center's legal and financial parameters.
- Conduct a survey of local business entities and business associations regarding the types of seminars they would be interested in attending. The responses will facilitate the programmatic development of the two pilot one-day seminars scheduled to take place before the end of the year.
- Complete hiring of senior staff, particularly the Financial Director and Outreach & Information Director positions.

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Financial Statement

Please see attached.